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FILE

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of

Robert B. Taylor
Jupiter, Florida

For Renewal of Station WTRU(FM)

Jupiter Broadcasting, Corp.
Jupiter, Florida

For a Construction Permit

MM Docket No. 92-114

FCC File No. BRH-880926UJ

FCC File No. BPH-890103MD

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Federal Communications Commission
Office of the SecretaryTo: Honorable Walter C. Miller
Administrative Law Judge

OPPOSITION TO FIRST MOTION TO
ENLARGE ISSUES AGAINST JUPITER
BROADCASTING CORP.

Respectfully submitted,

Joseph A. Belisle
Counsel for
Jupiter Broadcasting, Corp.

September 3, 1992

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SUMMARY

Robert B. Taylor seeks real-party-in-interest, misrepresentation and lack of candor issues against Jupiter Broadcasting Corp. ("JBC") on the basis of alleged failures to report JBC's active shareholders. The fact is, however, that JBC's application has always accurately reflected all ownership information required by the FCC. JBC is a Commission permittee. Its ownership report and all contracts affecting stock ownership are on file at the FCC and in JBC's public file at the Jupiter Public Library. JBC has sought no advantage based on its ownership structure and has no logical motive to represent or conceal its true ownership. Mr. Taylor's issue request should be denied.

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OPPOSITION TO FIRST MOTION TO
ENLARGE ISSUES AGAINST JUPITER
BROADCASTING CORP.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

1. Jupiter Broadcasting Corp. ("JBC") opposes the "First Motion to Enlarge Issues Against Jupiter Broadcasting Corp." filed by Robert B. Taylor on August 13, 1992. Therein Mr. Taylor seeks issues inquiring into whether Paul Levine is the real-party-in-interest in JBC's application and whether JBC misrepresented facts or lacked candor when in JBC's original application did not disclose Mr. Levine's role in JBC. As demonstrated below, JBC's application has always accurately reflected the identity of its active shareholders. JBC never attempted to conceal from Mr. Taylor, or anyone else, the persons involved in its application. No factual basis exists for specifying a real-party-in-interest or misrepresentation/lack of candor issue against JBC.

STATEMENT OF THE LAW

2. Mr. Taylor's request for issues is governed by the procedural requirements of Rule 1.229. Under Rule 1.229(d), motions to enlarge issues must contain specific allegations of fact sufficient to support the action requested. This means that issues will not be added on the basis of speculation and surmise. See West Central Ohio Broadcasters, Inc., 6 RR 2d 486, 487 (Rev. Bd. 1965); and Quinnipiac Valley Service, Inc., 27 RR 2d 1637, 1639-40 (Rev. Bd. 1973). The Commission regards strict adherence to the requirements of Rule 1.229 as an important element of its new

expedited hearing procedures.¹

3. Mr. Taylor's motion is also governed by the substantive law of real-party-in-interest. The requirement that applicants disclose all parties in interest in their applications arises from the provisions of Section 319(a) of the Communications Act of 1934, 47 USC § 319(a), that "the application for a construction permit shall set forth such facts as the Commission may by regulation prescribe as to the citizenship, character...and other ability of the applicant to construct and operate the station...." Through operation of Rule 73.3514,² FCC Form 301 provides the standard for disclosing information on parties-in-interest in applications for broadcast construction permits.

4. The gravamen of a real-party-in-interest issue is therefore, the existence of an undisclosed party to an applicant's application. It is a question of the applicant's compliance with the disclosure requirements of 47 USC § 319(a).

5. A classic application of the test for an undisclosed real-party-in-interest is found in KOWL, Inc., 31 RR 2d 1589 (Rev. Bd. 1974). In that case, the Review Board granted a request for

¹See Proposals to Reform the Comparative Hearing Process, 6 FCC Rcd. 157, 161 (1990) where the Commission stated "[S]ection 1.299 places the burden of establishing that the enlargement of issues is warranted on the moving party and sets forth pleading standards that must be met in moving to enlarge issues. To avoid the need to try unnecessary issues, we expect ALJ's and the Review Board to strictly adhere to the standards established in the rule."

²Rule 73.3514(a) requires applicants to provide "all information called for by the particular form on which the application is required to be filed, unless the information called for is inapplicable, in which case this fact shall be indicated."

a real-party-in-interest issue against New World Broadcasting Company ("New World") and denied a request for a real-party-in-interest issue against Entertainment Enterprises, Inc. ("EEI"). The test applied by the Review Board to both applicants was the same, namely whether the undisclosed third person "has an ownership interest, or is in or will be in a position to actually or potentially control the operation of the station." Id. at 1592-93.

6. In adding the real-party-in-interest issue against New World, the Review Board noted that New World's incorporator and former director Rick Souder had been arrested on drug charges and removed from the applicant. His father, a third person, agreed to provide New World with all its broadcasting equipment and the funds for the station's first year of operations and there was some indication that Rick Souder would become a New World principal at a future date. Given these circumstances, the Review Board found an obvious motive for Rick Souder's father exercising control over New World until his son's return to the company and questioned "whether the relationship between the Souder's and New World is more than a normal debtor/creditor relationship." KOWL, Inc., 31 RR 2d at 1593.

7. KOWL, Inc.'s holding with respect to the real-party-in-interest issue sought against EEI turned on the question of adequate disclosure of ownership interests. EEI's application indicated that its three shareholders owned 100% of its stock and that there were loan-stock options outstanding with five other

named individuals. The loan-stock options stated a specific monetary commitment but did not specify the actual amount of stock to be purchased. The application did note, however, that a maximum amount of 49% of the corporation would be transferred to the five named loan-stock option holders. EEI's opponents requested a real-party-in-interest issue alleging that this was necessary to determine who will actually have ownership interests in EEI and the extent of their participation. This issue was rejected by the Review Board because "all pertinent information concerning who are and will be EEI principals, present and future, is adequately revealed." KOWL, Inc., 31 RR 2d at 1598-99.³

STATEMENT OF THE FACTS⁴

8. JBC principals Paul Levine and Charles Reid were among a number of individuals who contacted Leibowitz & Spencer in 1988 concerning the possibility of filing a renewal challenge to Robert B. Taylor's Jupiter, Florida radio stations. The first group to actually decide to challenge the Jupiter renewals was Paul Levine's group. This decision was made some time around mid-June 1988.

9. In July 1988 Charles Reid called Joseph Belisle at

³cf. Henderson Broadcasting Co., Inc., 29 RR 2d 529, 530-32 (Rev. Bd. 1974) where the Review Board rejected a request for an issue to determine who will have actual control of an applicant. The Board noted that the allegation of concealment and misrepresentation of ownership information was not supported by facts showing the application to be inaccurate or incomplete.

⁴See the declarations of Joseph A. Belisle III, Paul Levine and Charles Reid appended hereto as Exhibits 1, 2 and 3, respectively.

Leibowitz & Spencer to hire the firm to represent him in applications challenging Robert Taylor's Jupiter renewals. He gave Mr. Belisle the impression that he was definitely going to file against Mr. Taylor's stations.

10. Mr. Belisle informed Mr. Reid that Leibowitz & Spencer already had a client that wanted to file against Mr. Taylor's renewals. He suggested that Mr. Reid contact Paul Levine and see if a merger of interests was possible prior to the time applicants had to be filed with the Federal Communications Commission.

11. On August 4, 1988, Paul Levine, Charles Reid and Mike James⁵ met at Leibowitz & Spencer's offices. The purpose of this meeting was to explore the possibility of merging the two would-be renewal challenges.

12. Prior to September 20, 1988, Mr. Reid and Mr. Levine agreed to go forward to challenge the Jupiter, Florida renewals. As of September 20, 1988 Leibowitz & Spencer had opened an account for this purpose under the name Charles Reid with a file name of Jupiter Florida. The client report opening this account included instructions to hold billing until Mr. Reid formed his applicant.

13. Jupiter Broadcasting Corp. was formed as a two-tier corporation having voting and non-voting stock at its communications counsel's recommendation. It was designed so that Charles Reid would be in sole control of the corporation's operations with Paul Levine, Philip Greenberg and William

⁵Mr. James was an associate of Charles Reid in a cable radio business they operated in Palm Beach County, Florida.

Washington assuming a passive role. The Articles of Incorporation and Shareholder's Agreement for JBC were drafted by Michael Rosen of Weintraub & Rosen.⁶

14. As far as the division of equity in Jupiter Broadcasting Corp. is concerned, Communications Counsel recommended that Charles Reid hold at least twenty percent of the equity in the Corporation. At Mr. Reid's request, William Washington received a five percent equity interest in the corporation. Since Mr. Washington's equity interest came from the equity allotted to Charles Reid, Mr. Reid's equity interest was ultimately set at fifteen percent.

15. JBC's December 1988 Shareholder's Agreement insured that its non-voting shareholders would be passive investors in the corporation. It contained the following limitations on the power of non-voting shareholders:

The owners of the shares of Class B stock of the Corporation (non-voting shares) hereby acknowledge that they have purchased these shares as a passive investment only. The owners of Class B stock shall not take part in the management of the Corporation or transact any business for the Corporation, and shall have no power to sign for or to bind the Corporation. In the event of a grant of the Corporation's application for a radio station license, no compensation shall be paid to any non-voting Shareholder because of such grant. The Shareholders of the Class B stock shall not provide services to, or be employed in any capacity by, the Corporation; nor serve as an officer, director, independent contractor or agent of the Corporation. The Shareholders of the Class B shares shall not communicate with the Shareholder of the Class A stock with regard to the day-to-day operations of the Station. Nothing herein contained shall be construed to prohibit the non-voting

⁶Paul Levine was not a lawyer in this firm.

Shareholders from communicating with the voting Shareholder concerning their respective rights and obligations under this Agreement.

16. JBC's December 1988 Shareholders' Agreement also imposed specific financial obligations on the non-voting shareholders. It provided:

During the term of this Agreement, the non-voting Shareholders shall cause to be advanced to the Corporation (by way of loans and/or additional contributions of capital to the Corporation) \$150,000.00 or such lesser amount as may be necessary to enable the Corporation to prosecute an application with the FCC for a license to operate radio stations. In the event said license is granted, the non-voting Shareholders shall use their best efforts to secure financing up to \$800,000 to construct and operate the station and its facilities. These obligations shall expire upon the death of any Shareholder or the sale by any Shareholder of his shares in the Corporation.⁷

17. Charles Reid had a sole control over the affairs of Jupiter Broadcasting Corp., until Paul Levine and William Washington became voting shareholders in 1991. Mr. Reid assisted counsel in preparing Jupiter Broadcasting Corp.'s application. Mr. Reid established the corporation's public inspection file at the Jupiter Public Library. Mr. Reid arranged for publication of local public notice of the filing of Jupiter Broadcasting Corp.'s application. All correspondence regarding the Corporation was sent to Mr. Reid. Mr. Reid paid the Corporation's bills. Mr. Reid assisted in investigating Mr. Taylor's Jupiter, Florida radio stations. Mr. Reid kept Jupiter Broadcasting Corp.'s applications up to date.

⁷See the Shareholders Agreement appended hereto as Exhibit No. 4.

18. In late 1989 or early 1990 Philip Greenberg became dissatisfied with the cost of his investment in Jupiter Broadcasting Corp. He felt that the company's lawyers were too expensive and wanted the company to hire a different law firm. Charles Reid refused to change law firms and insisted on holding Mr. Greenberg to his agreements with Jupiter Broadcasting Corp.. Other projects Leibowitz & Spencer was working on that were funded by Mr. Greenberg were withdrawn from the firm. Only Jupiter Broadcasting Corp. remained and it remained only because Charles Reid controlled Jupiter Broadcasting Corp.

19. Charles Reid's insistence on holding Philip Greenberg to his agreements with Jupiter Broadcasting Corp. placed Paul Levine in a difficult position. Mr. Levine was Mr. Greenberg's lawyer. He brought Mr. Greenberg into the deal with Jupiter Broadcasting Corp. and he worked hard to extricate Mr. Greenberg from the deal. Basically, he had to find a mechanism to replace Mr. Greenberg that a) reimbursed Mr. Greenberg his costs and b) satisfied Jupiter Broadcasting Corp.'s needs. Ultimately, he accomplished this by arranging for Alan Potamkin to finance Mr. Greenberg's departure from Jupiter Broadcasting Corp.

20. Paul Levine's work to replace Philip Greenberg was performed on behalf of Philip Greenberg, not Jupiter Broadcasting Corp. If Mr. Greenberg did not like his deal with Jupiter Broadcasting Corp., that was his problem. The corporation was fully prepared to hold him to his contracts. Only Paul Levine's efforts on Mr. Greenberg's behalf averted a confrontation between

Mr. Greenberg and Jupiter Broadcasting Corp.

21. JBC executed its Option agreement with Alan Potamkin on April 30, 1990. In a Petition for Leave to Amend dated May 2, 1990, it reported its agreement to purchase Philip Greenberg's non-voting shares and its option agreement with Alan Potamkin. It also reported Mr. Potamkin's media interests.

22. Charles Reid had difficulty being the only person responsible for Jupiter Broadcasting Corp. Mr. Reid is not a wealthy man. He often worked two jobs. He did not have much time to devote to Jupiter Broadcasting Corp. business. He had difficulty keeping the corporation's books and records. He failed to timely file the corporation's income tax returns. His unfamiliarity with corporate procedures resulted in Jupiter Broadcasting Corp. being involuntarily dissolved for failure to file corporate annual reports. The corporate structure of Jupiter Broadcasting Corp. prevented Mr. Reid from communicating with non-voting shareholders. He could not even ask his own accountant, William Washington, for assistance in corporate affairs.

23. The lack of progress on Jupiter Broadcasting Corp.'s applications at the Federal Communications Commission demoralized Charles Reid. His broadcast career languished while the FCC continued to let Robert B. Taylor keep his stations without a renewal hearing. By the spring of 1991 it was clear to Charles Reid and the other shareholders of Jupiter Broadcasting Corp. that Mr. Reid could not continue as the only person in charge of the corporation. He needed help. The corporation was restructured at

this point to permit Paul Levine and William Washington to play an active role in corporate affairs.

24. The corporate documents giving William Washington and Paul Levine the right to JBC voting stock were fully executed on April 22, 1991. On May 1, 1991, JBC filed an amendment to its application reporting all pertinent data on Mr. Washington and Mr. Levine and revealing the options and agreements potentially affecting Mr. Reid's stock ownership.

25. Jupiter Broadcasting Corp. is the FCC permittee of a new commercial AM station in Jupiter, Florida. Its ownership is fully reported in an ownership report filed with the Commission on July 24, 1992. Each and every document or agreement required to be filed under Rule 73.3613 has been filed with the Commission. Specifically, Jupiter Broadcasting Corp. has filed the following documents with the FCC:

- a) Articles of Incorporation
- b) Bylaws
- c) Alan H. Potamkin Option Agreement
- d) Revised Shareholders Agreement
- e) Amendment to Alan H. Potamkin Option Agreement
- f) Second Revised Shareholders Agreement
- g) Second Amendment to Alan H. Potamkin Option Agreement

26. JBC's ownership report and each associated document were sent to the Jupiter, Florida, Public Library for inclusion in JBC's public inspection file.

ARGUMENT**I. JBC HAS REVEALED ALL PERTINENT OWNERSHIP INFORMATION IN ITS APPLICATION.**

27. A real-party-in-interest issue does not lie where all pertinent information concerning an applicant's present and future principals is revealed in its application. KOWL, Inc., supra at 1598-99. JBC's original application correctly reported that Charles Reid was the applicant's only voting shareholder and provided all information concerning his ownership. Mr. Taylor's pleading notes that non-voting shareholders did not have to be reported on the Form 301 in use at the time JBC applied.⁸ For that reason, Mr. Reid's ownership information was the only data initially contained in JBC's FCC Form 301.

28. On April 30, 1990 JBC entered into an option agreement with Alan H. Potamkin that could result in Mr. Potamkin's ownership of 60 shares of JBC non-voting stock. JBC amended its application promptly to report this fact. Similarly, on April 22, 1991, JBC reorganized its corporate structure, providing Paul Levine and William Washington with voting stock and creating certain options with respect to Charles E. Reid's stock ownership. These facts were reported in an amendment filed May 1, 1991.

29. JBC's ownership structure is fully revealed in its application. It is an existing FCC permittee and all contracts regarding rights to its stock are on file with the FCC and are in

⁸See First Motion To Enlarge Issues Against Jupiter Broadcasting Corp. at p.2.

its public inspection file. No attempt has ever been made to conceal JBC's ownership and control. Every effort has been made to apprise the FCC and the public of JBC's true ownership, both actual and potential. No justification exists for specifying a real-party-in-interest, misrepresentation or lack of candor issue against JBC.

II MR. TAYLOR'S REQUEST FOR ISSUES AGAINST JBC IS BASED ON FALSE SPECULATION.

30. Mr. Taylor's pleading portrays Paul Levine as the moving force behind the creation JBC's application. The fact is, however, that Mr. Levine's group and Mr. Reid both decided to apply for Mr. Taylor's stations. They reached their decisions independently of each other. It was Leibowitz and Spencer that suggested that the two would-be applicants merge interests.

31. JBC was originally structured to place sole control of the applicant in Charles Reid. Mr. Taylor suggests that Paul Levine's role in selling Philip Greenberg's JBC stock demonstrates that Mr. Levine was calling the shots at JBC. The exact opposite is true. Paul Levine worked hard to sell Philip Greenberg's JBC stock precisely because Charles Reid controlled JBC. Specifically Charles Reid refused Mr. Greenberg's request to fire JBC's lawyers. Mr. Reid held Mr. Greenberg to the terms of his agreements with JBC and only Mr. Levine's efforts on Mr. Greenberg's behalf permitted Mr. Greenberg's withdrawal from JBC.

32. At page 12 of his pleading, Mr. Taylor speculates that

Alan H. Potamkin can use his financial power in JBC to bludgeon the license to obey his will. The short answer to this is that it has been tried before, without success. Charles Reid did not permit Philip Greenberg to renege on his agreements with JBC. There is no reason to believe Alan Potamkin will be held to a lesser standard than Mr. Greenberg.⁹

III. JBC HAS NO LOGICAL MOTIVE TO CONCEAL ITS OWNERSHIP STRUCTURE.

33. Mr. Taylor's pleading accuses JBC of dishonest conduct without positing any logical motive for JBC's alleged deceit. JBC's ownership structure would be relevant if JBC claimed integration credit. However JBC never claimed any integration credit. Mr. Taylor has not identified a single actual or potential owner of JBC not revealed in JBC's application. JBC has not identified a single act on the part of JBC or any of its principals that is inconsistent with JBC's reported ownership structure. No justification for specification of real-party-in-interest, misrepresentation or lack of candor issues exists.¹⁰

⁹Mr. Taylor also speculates that Mr. Potamkin will exercise his option on JBC stock in December 1992. The fact is that Mr. Potamkin's stock option has been extended to expire six months after JBC obtains a grant of an FM construction permit. See Exhibit 5, hereto.

¹⁰In an aside, Mr. Taylor suggests that JBC has undergone a de facto transfer of control requiring the assignment of a new file number to its application. No authority is cited for this remarkable proposition. Rule 73.3573(b) governs assignment of new file numbers and it contains no support for Mr. Taylor's claim. Moreover Rule 73.3573(c) requires the Commission to permit the withdrawal of any pre-designation amendment that requires

CONCLUSION

34. JBC submits that Mr. Taylor has failed to plead facts sufficient to warrant specification of real-party-in-interest, misrepresentation or lack of candor issue against JBC. The facts are that JBC's application has always accurately reflected its ownership structure. JBC has no logical motive to conceal its true ownership. JBC has not asserted any claim in this proceeding based on a superior ownership structure or on the superior characteristics of its owners. Mr. Taylor's request for enlargement of issues should be denied.

Respectfully submitted,



Joseph A. Belisle
Counsel for
Jupiter Broadcasting Corp.

September 3, 1992

assignment of a new file number. JBC was never asked to withdraw any of its amendments.

Exhibit No. 1

DECLARATION OF JOSEPH A. BELISLE III

In 1988, I had inquiries from a number of people concerning the possibility of filing a license renewal challenge to Robert B. Taylor's Jupiter, Florida radio stations. Among the people who contacted me were Paul Levine and Charles Reid.

I knew in February, 1988 that Paul Levine had a client interested in the Jupiter stations. Sometime after mid-June, 1988 Mr. Levine informed me that this group wanted to go forward to challenge the Jupiter license renewals.

Before Mr. Levine's group decided to challenge Mr. Taylor's Jupiter, Florida license renewals, I spoke to at least two other potential clients about challenging these licenses. One of these potential clients was Charles E. Reid. Mr. Reid telephoned me and asked about the process of filing a license renewal challenge. He did not get back to me before Mr. Levine informed me of his group's intention to file competing applications.

In July 1988, Charles Reid called me a second time regarding a license renewal challenge to Mr. Taylor's Jupiter, Florida radio stations. He wanted to hire Leibowitz & Spencer to represent him in applications for these stations. Mr. Reid did not tell me that he was financially unable to file a license renewal challenge. To the contrary, he gave me the impression that he was going to file against Mr. Taylor's stations, whether or not he was represented by Leibowitz & Spencer.

I told Mr. Reid that Leibowitz & Spencer already had a client

that wanted to file a renewal challenge and that we could not represent him. I suggested that he contact Paul Levine and see if a merger of interests was possible prior to the time applications had to be filed with the Federal Communications Commission. I was of the opinion that the two would-be applicants should avoid a situation where they would have to fight each other and Robert Taylor in the upcoming hearing.

Matthew L. Leibowitz and I met with Paul Levine, Charles Reid and Mike James at Leibowitz & Spencer's offices on August 4, 1988. My understanding is that Mr. James was an associate of Mr. Reid in his cable radio business in Palm Beach County. The purpose of this meeting was to explore the possibility of merging the two would-be renewal challengers.

I cannot pinpoint precisely when Mr. Levine's group and Mr. Reid's group agreed to go forward together to apply for the Jupiter, Florida stations. However, by September 20, 1988, I had opened a client account for Charles Reid under the file name Jupiter, Florida. A copy of the Leibowitz & Spencer Client Report is attached hereto. Instructions on the client report were to withhold billing until Mr. Reid formed his applicant.

Jupiter Broadcasting Corp. was formed as a two-tier corporation with voting and non-voting stock at my recommendation. It was my intention to design a corporate structure with Charles Reid in sole control of the corporation's operations and with the non-voting shareholders Paul Levine, Philip Greenberg and William Washington assuming a passive, financial role in the corporation's

affairs. The actual incorporation of Jupiter Broadcasting Corp. was done by a corporate lawyer, Mr. Michael Rosen of Weintraub & Rosen. Paul Levine was not a lawyer in this firm.

As far as the division of equity in Jupiter Broadcasting Corp. is concerned, I recommended that Charles Reid hold at least twenty percent of the equity in the Corporation. At Mr. Reid's request, William Washington received a five percent equity interest in the corporation. Since Mr. Washington's equity interest came from the equity allotted to Charles Reid, Mr. Reid's equity interest was ultimately set at fifteen percent.

Charles Reid had sole control over the affairs of Jupiter Broadcasting Corp. until Paul Levine and William Washington became voting shareholders in 1991. Mr. Reid assisted counsel in preparing Jupiter Broadcasting Corp.'s application. Mr. Reid established the corporation's public inspection file at the Jupiter Public Library. Mr. Reid arranged for publication of local public notice of the filing of Jupiter Broadcasting Corp.'s application. All correspondence regarding the Corporation was sent to Mr. Reid. Mr. Reid paid the Corporation's bills. Mr. Reid assisted in investigating Mr. Taylor's Jupiter, Florida radio stations. Mr. Reid kept Jupiter Broadcasting Corp.'s applications up to date.

In late 1989 or early 1990 Philip Greenberg became dissatisfied with the cost of his investment in Jupiter Broadcasting Corp. He felt that the company's lawyers were too expensive and wanted the company to hire a different law firm. Charles Reid refused to change law firms and insisted on holding

Mr. Greenberg to his agreements with Jupiter Broadcasting Corp. Other projects Leibowitz & Spencer was working on that were funded by Mr. Greenberg were withdrawn from the firm. Only Jupiter Broadcasting Corp. remained and it remained only because Charles Reid controlled Jupiter Broadcasting Corp.

Charles Reid's insistence on holding Philip Greenberg to his agreements with Jupiter Broadcasting Corp. placed Paul Levine in a difficult position. Mr. Levine was Mr. Greenberg's lawyer. He brought Mr. Greenberg into the deal with Jupiter Broadcasting Corp. and he worked hard to extricate Mr. Greenberg from the deal. Basically, he had to find a mechanism to replace Mr. Greenberg that a) reimbursed Mr. Greenberg his costs and b) satisfied Jupiter Broadcasting Corp.'s needs. Ultimately, he accomplished this by arranging for Alan Potamkin to finance Mr. Greenberg's departure from Jupiter Broadcasting Corp.

Paul Levine's work to replace Philip Greenberg was performed on behalf of Philip Greenberg, not Jupiter Broadcasting Corp. If Mr. Greenberg did not like his deal with Jupiter Broadcasting Corp., that was his problem. The corporation was fully prepared to hold him to his contracts. Only Paul Levine's efforts on Mr. Greenberg's behalf averted a confrontation between Mr. Greenberg and Jupiter Broadcasting Corp.

Charles Reid had difficulty being the only person responsible for Jupiter Broadcasting Corp. Mr. Reid is not a wealthy man. He often worked two jobs. He did not have much time to devote to Jupiter Broadcasting Corp. business. He had difficulty keeping

corporation records and failed to timely file the Corporation's income tax returns. His unfamiliarity with corporate procedures resulted in Jupiter Broadcasting Corp. being involuntarily dissolved for failure to file corporate annual reports. The corporate structure of Jupiter Broadcasting Corp. prevented Mr. Reid from even asking his own accountant, William Washington, for assistance in corporate affairs.

The lack of progress on Jupiter Broadcasting Corp.'s applications at the Federal Communications Commission demoralized Charles Reid. His broadcast career languished while the FCC continued to let Robert B. Taylor keep his stations without a renewal hearing. By the spring of 1991 it was clear to Charles Reid and the other shareholders of Jupiter Broadcasting Corp. that Mr. Reid could not continue as the only person in charge of the corporation. The corporation was restructured at this point to permit Paul Levine and William Washington to play an active role in corporate affairs.

The corporate actions allowing Paul Levine and William Washington to assist Charles Reid were taken of necessity. They destroyed Jupiter Broadcasting Corp.'s plans to claim integration credit at hearing. They were not taken to squeeze Charles Reid out of the ownership to which he was entitled. They were taken solely to permit Jupiter Broadcasting Corp. to function effectively.

Jupiter Broadcasting Corp. is the FCC permittee of a new commercial AM station in Jupiter, Florida. Its ownership is fully reported in an ownership report filed with the Commission on July

24, 1992. Each and every document or agreement required to be filed under Rule 73.3613 has been filed with the Commission. Specifically, Jupiter Broadcasting Corp. has filed the following documents with the FCC:

- 1) Articles of Incorporation
- 2) Bylaws
- 3) Alan H. Potamkin Option Agreement
- 4) Revised Shareholders Agreement
- 5) Amendment to Alan H. Potamkin Option Agreement
- 6) Second Revised Shareholders Agreement
- 7) Second Amendment to Alan H. Potamkin Option Agreement

I mailed the ownership report and associated documents to the Jupiter, Florida Public Library for inclusion in JBC's public inspection file.

I declare under penalty of perjury that the facts stated above are true.


Joseph M. Belisle III

LEIBOWITZ & SPENCER -- CLIENT REPORT

Date 9/20/86 Prep by JAB Client No. 66-005
 Client Name Charles Reid

ACTION REQUESTED

☒ New Client ☐ Close This File
☒ New Matter ☐ Re-Open This File
☒ New File ☐ Expunge This File
 Change Data: ☐ Consolidate This File Into:
☐ This File Only
☐ All Files This Client Other _____

MATTER/FILE INFORMATION

Matter No. 66-005-001 AOP Comm Type L
 File Name Jupiter, Florida
 Opp Counsel _____ Phone _____
 Ass'd Atty JAB Client Contact Charles Reid

CLIENT INFORMATION

Orig Atty JMS Resp Atty JAB Client Source 0
 Client Address Charles Reid Phone: _____
1521 W. Blue Heron Blvd Bus (407) 881-9610
Riviera Beach, FL 33407 H (407) 835-0067
881-7460

Bill to (if diff't) _____

Fees: ☒ Hourly ☐ Fixed ☐ Cont ☐ Pro Bono

Rate: ☒ Normal ☐ Special: _____

Bill: ☒ Monthly ☐ Completion ☐ Other: _____

Special Inst/Comments Hold Billing Until Mr. Reid
Forms His Applicant

File Opened By _____ Cards Dist By _____ Admin App _____

CODES

AOP	Type	Source
COMM = Communications	O = Non-litigation	0 = Exist client
BUS = Business	L = Litigation	1 = Other client
CORP = Corporate	E = Petition/Ex parte	2 = Other lawyer
RE = Real Estate	N = Non-billable	3 = Banker
PROB = Probate		4 = Friend
CIVL = Civil Litigation		5 = Relative
TAX = Taxation		6 = L&S
DOM = Domestic Relations		7 = Yellow pages
EST = Estate Planning		8 = Engineer

Exhibit No. 2

**TESTIMONY OF PAUL LEVINE
REGARDING "REAL PARTY IN INTEREST"**

I have reviewed Robert B. Taylor's "First Motion to Enlarge Issues Against Jupiter Broadcasting Corp." and feel compelled to file this sworn statement in response. The motion declares that "the evidence now available raises substantial questions whether Mr. Levine should be regarded as the moving force and real-party-in-interest in the JBC application, and whether Mr. Reid has been a 'straw man.' (Paragraph 21).

Frankly, the only straws here are the ones desperately being grasped by Mr. Taylor. On January 9, 1992, he wrote Alan Potamkin saying, "The investigation which has just been completed shows that you are the real party in interest...." (Attachment E, Testimony of Paul Levine Regarding Settlement Issues). That gambit having failed, now I am the real party in interest, according to Mr. Taylor.

The pending motion raises this purported issue by lumping together my activities prior to the formation of JBC (i.e., prior to the filing of the application) and my activities post-filing as a lawyer on behalf of former non-voting shareholder Philip Greenberg. In this broad-brush approach, the motion attempts to equate these activities with controlling the operations of JBC and the application itself. Let me state this as clearly as I can: at the time Charles Reid was the sole voting shareholder, he and he alone controlled JBC. Since the reorganization in 1991, Mr. Reid has shared those duties with William Washington and me.

There is a profound irony here. JBC has attempted to be 100% candid in its application and subsequent filings with the Commission.